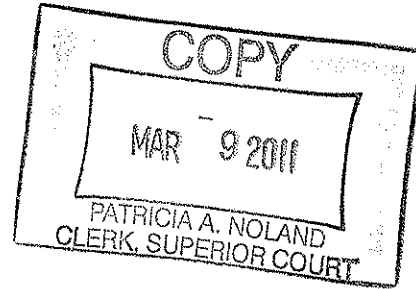


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Attorneys for the State of Arizona



8
9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
IN AND FOR THE COUNTY OF PIMA

10 STATE OF ARIZONA, *ex rel.* THOMAS C.
11 HORNE, Attorney General,

No. C **C20111805**

12 Plaintiff,
13 vs.

**COMPLAINT FOR INJUNCTIVE
AND OTHER RELIEF**

14 Smoke Freely, LLC, and Professional
15 Marketing Associates, Inc.,

Unclassified Civil
STEPHEN VILLARREAL
Honorable

16 Defendants.

17 Plaintiff State of Arizona, by and through its attorney, alleges the following:
18

19 **JURISDICTION AND VENUE**

20 1. The State of Arizona brings this action pursuant to the Arizona Consumer Fraud
21 Act, A.R.S. § 44-1521 *et seq.*, to obtain restitution, declaratory and injunctive relief, civil
22 penalties, attorneys' fees and costs, investigative expenses and other relief to prevent the
23 unlawful acts and practices alleged in this Complaint and to remedy the consequences of such
24 unlawful practices.

25 2. Venue is proper in Pima County, Arizona.

26 3. The Superior Court has jurisdiction to enter appropriate orders, both prior to and
27 following a determination of liability, pursuant to A.R.S. § 44-1528.
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PARTIES

4. Plaintiff is the State of Arizona, *ex rel.* Thomas C. Horne, who is authorized to bring this action under the Arizona Consumer Fraud Act, A.R.S. § 44-1521 *et seq.*

5. Defendant Smoke Freely, LLC is an Arizona limited liability company.

6. Defendant Professional Marketing Associates, Inc. is a Massachusetts corporation.

ALLEGATIONS

7. Defendant Smoke Freely is an internet company that sells electronic cigarettes to consumers.

8. Defendant Smoke Freely's website is www.smokefreely.com.

9. Defendant Smoke Freely offers Prado Electronic Cigarettes for sale.

10. The Prado Electronic Cigarette is a battery-powered device that can provide the inhaler with doses of nicotine by delivering a vaporized chemical solution.

11. Electronic Cigarettes produce a vapor rather than smoke.

12. Defendant Smoke Freely's terms and conditions indicate that "the laws of the State of Arizona, without regard to its conflict of law principles, will govern these Terms." March, 2010 Letter, attached as Exhibit A.

13. Defendant Professional Marketing Associates provides fulfillment services on behalf of Defendant Smoke Freely. *Id.*

14. Defendant Smoke Freely's terms and conditions state "Prado E Cigarette is not intended as a smoking cessation device." *Id.*

15. Defendant Professional Marketing Associates states "[t]he product we distribute is an electronic [cigarette] used as a smoking cesation [*sic*] device." *Id.*

1 16. The Prado Electronic Cigarette has not been approved by the Food and Drug
2 Administration as a smoking cessation device. FDA Website, attached as Exhibit B.

3 17. Defendant Smoke Freely advertises a "Ten Day Risk Free Trial of Prado
4 Electronic Cigarette[s]."

5 18. Defendant Smoke Freely's terms and conditions explain the "Risk Free Trial" as
6 follows:
7

8 General Agreement By clicking to order, you agree to our terms and conditions
9 and are enrolled in the auto ship Refill Value Plan which is included as the 20
10 cartridges [*sic*] in the Prado Electronic Cigarette Starter Kit. Your credit card will
11 be charged \$9.95 to cover the shipping & handling of your RISK FREE Trial of
12 the Prado Electronic Cigarette Starter Kit, this \$9.95 S&H fee is non refundable.
13 If after 10 days*** of your order you keep your Prado Electronic Cigarette
14 Starter Kit and the 20 cartridges (autoship Refill Value Plan) and have not
15 returned the item with a valid RMA number, your credit card will be billed for
16 the full purchase price of the starter kit (\$89.95) and for the Refill Value Plan
17 (\$9.95) for a total of \$149.90.

18 Exhibit A at 2.

19 19. Defendant Smoke Freely also offers fourteen (14) day free trials which have
20 similar terms and conditions.

21 20. In some cases, Defendant Smoke Freely charged consumers the full price of the
22 merchandise before the expiration of the trial period. For example:

23 a. A consumer ordered a free trial on July 17, 2010 and was charged \$79.90 and
24 \$9.95 on July 19, 2010.

25 b. Another consumer ordered a free trial on March 6, 2010 and was charged
26 \$150.00 on March 8, 2010.

27 21. Consumers can obtain an "RMA number" by calling Defendant Smoke Freely's
28 Customer Service Center within the trial period. *Id.*

1 22. Defendants will not accept returned merchandise if the consumer does not have a
2 RMA number. *Id.*

3 23. Returned merchandise must be received by Defendants by the last day of the
4 “Risk Free Trial.” *Id.*

5 24. Regardless of the time a consumer orders a starter kit, the order day is the first
6 day of the trial period. *Id.*

7 25. The days calculated in the trial period include transit time. *Id.*

8 26. In some cases, Defendants fail to deliver the merchandise to consumers within
9 the trial period. For example:

10 a. On January, 14, 2010, a consumer ordered a starter kit as part of the ten (10)
11 day trial period.

12 b. On January 24, 2010, Defendants deducted \$149.90 from the consumer’s
13 credit union.

14 c. On January 26, 2010, the consumer received the starter kit.

15 d. The consumer refused the merchandise and returned it on January 27, 2010.

16 e. Defendant Professional Marketing Associates refused to refund the
17 consumer’s money stating the consumer “agreed to the terms and conditions
18 which outlines the return policy as well as the continued monthly shipments.
19 Return and cancellation policy was not met by this customer.” *Id.*

20 f. Defendant Professional Marketing Associates did not deny that the consumer
21 received the merchandise after the trial period expired. *Id.*

22 27. Defendants automatically enroll consumers in the “Refill Value Plan.” *Id.*

23 28. When Defendants deem consumers’ returns to be invalid, Defendants ship
24

1 additional merchandise to consumers and charge consumers for that merchandise.

2 29. In March of 2010, Defendant Smoke Freely's terms and conditions indicated
3 consumers will be charged a twenty percent (20%) restocking fee for all returned merchandise.
4

5 *Id.*

6 30. Defendant Smoke Freely's terms and conditions no longer mention a restocking
7 fee. Terms and Conditions, attached as Exhibit C.

8 31. The purchase page currently associated with the free trial states: "A restocking
9 fee may apply on returns." Free Trial Purchase Page, attached as Exhibit D.

10 32. This statement appears on the purchase page in a light gray font on a white
11 background and is not in close proximity to Defendant Smoke Freely's restocking fee policy.
12

13 *Id.*

14 33. The purchase page does not indicate where consumers can obtain a copy of
15 Defendant Smoke Freely's restocking fee policy. *Id.*

16 **VIOLATIONS OF THE ARIZONA CONSUMER FRAUD ACT**

17 **A. FIRST CLAIM FOR RELIEF**

18 1. The State re-alleges all preceding paragraphs.

19 2. Beginning in or around December of 2009, Defendants, in connection with the
20 sale of merchandise, used or employed deception, deceptive acts or practices, fraud, false
21 pretenses, false promises, misrepresentations or concealment, suppression or omission of
22 material fact with the intent that others rely on such concealment and/or suppression or omission
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1 in violation of A.R.S. § 44-1522(A).¹

2 3. These acts include, but are not limited to:

3 a. Deceiving consumers by failing to deliver merchandise to consumers within
4 the trial period;

5 b. Misrepresenting merchandise as smoking cessation devices; and

6 c. Deceiving consumers by misrepresenting the dates on which Defendant
7 would debit consumers' bank and credit accounts.

8 4. Defendants have engaged in a pattern and practice of misrepresentations and
9 deceptive conduct in the sale of goods to consumers.
10

11 **B. SECOND CLAIM FOR RELIEF**

12 1. The State re-alleges all preceding paragraphs.

13 2. Beginning in or around December of 2009, Defendants, in connection with the
14 sale of merchandise, violated A.R.S. § 44-1377² which is a violation of A.R.S. § 44-1522(A).
15

16 3. Defendants violated A.R.S. § 44-1377³ by failing to provide their full restocking
17
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19

20 ¹ A violation of the Consumer Fraud Act means "the act, use or employment by any person of
21 any deception, deceptive act or practice, fraud, false pretense, false promise, misrepresentation,
22 or concealment, suppression or omission of any material fact with intent that others rely upon
23 such concealment, suppression or omission, in connection with the sale or advertisement of any
merchandise whether or not any person has in fact been misled, deceived or damaged thereby."
A.R.S. 44-1522(A).

24 ² "An act or practice in violation of this section is an unlawful practice under § 44-1522."
A.R.S. § 44-1377(C).

25 ³ "At the point of purchase for a good on the web site of the business, disclose that a restocking
26 fee may apply to the purchase of goods. The business must provide the full restocking fee

27 (continued ...)

1 fee policy on the web site and/or providing this disclosure in a clear and conspicuous manner.

2 **C. THIRD CLAIM FOR RELIEF**

3 1. The State re-alleges all preceding paragraphs as though fully set forth herein.

4 2. With regard to the foregoing violations, Defendants knew or should have known
5 that the above acts and practices violated the Consumer Fraud Act, and those violations were,
6 therefore, willful within the meaning of A.R.S. § 44-1531(A).⁴

7 **PRAYER FOR RELIEF**

8 WHEREFORE, the State respectfully requests that the Court:

9 A. Prohibit Defendants from violating the Consumer Fraud Act, A.R.S. § 44-1521
10 *et seq.*, as it is currently written or as may be amended in the future.

11 B. Prohibit Defendants from conducting any business in, into, or from the State of
12 Arizona, including any internet or credit business.

13 C. Permanently enjoin and restrain Defendants from engaging in the course of
14 conduct alleged herein as a violation of A.R.S. § 44-1521 *et seq.* Such conduct includes, but is
15 not limited to, misrepresenting the date on which consumer accounts will be debited, failing to
16 deliver merchandise to consumers within the trial period, misrepresenting merchandise as
17 smoking cessation devices, and failing to properly disclose the restocking fee policy.
18
19
20

21
22 _____
23 (... continued)

24 policy on the web site. The disclosure prescribed by this paragraph shall be printed in a clear
25 and conspicuous manner on the web site.

26 ⁴ “[A] wilful violation occurs when the party committing the violation knew or should have
27 known that his conduct was of the nature prohibited by § 44-1522.” A.R.S. § 44-1531(B).

1 D. Order Defendants, jointly and severally, to restore to all persons any money or
2 property, real or personal, that was acquired by means of any practice alleged herein to be a
3 violation of A.R.S. § 44-1521 *et seq.*, and such additional amounts as may be deemed proper
4 by the Court pursuant to A.R.S. § 44-1528(A)(2).
5

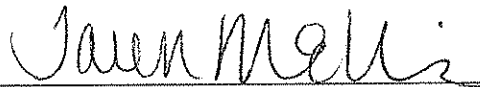
6 E. Order Defendants, jointly and severally, to pay to the State of Arizona a civil
7 penalty of up to \$10,000.00 for each violation of the Arizona Consumer Fraud Act pursuant to
8 A.R.S. § 44-1531.

9 F. Order Defendants, jointly and severally, to reimburse the Attorney General for
10 the costs of investigation and reasonable attorneys' fees pursuant to A.R.S. § 44-1534.
11

12 G. Order such other and further relief as the Court deems proper.

13 DATED this 9th day of March, 2011.

14 THOMAS C. HORNE, Attorney General

15 

16 Taren M. Ellis
17 Assistant Attorney General
18 Attorneys for Plaintiff
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Exhibit A

Smoke Freely
405 W. Fairmont Dr.
Tempe, AZ 85282

RECEIVED

MAR 10 2010

ARIZONA
ATTORNEY GENERAL
CONSUMER PROTECTION SECTION
TUCSON OFFICE

RECEIVED

MAR 08 2010

CPA/CIC

Customer Advocacy
State of Arizona
Phoenix, AZ 85001

Fax Number: 602-542-4579

Regarding Chargeback Reference CIC10-03933 for PMA Client Smoke Freely

Professional Marketing Associates (PMA) provides fulfillment services on behalf of Smoke Freely, LLC. The product we distribute is an electronic cigarette used as a smoking cessation device.

The Customer agreed to the terms and conditions which outlines the return policy as well as the continued monthly shipments. Return and cancellation policy was not met by this customer.

Below is the information we have for this transaction:

Shipment No.	1413553	Customer Information:
Transaction No.	SWF102	CARLETTA PERRETTA
Order Date	1/13/10	96EDMONDDR.
Ship Date	1/14/10	WARWICK, RI 02886
Payment Amount	\$ 4.95	CC Number:
Shipping & Handling	\$ 9.95	
Refund Date		
Refund Amount	\$ 0.00	

I hope we have provided everything you require. If you have any questions, please do not hesitate to call me at 480-829-0131.

Sincerely,

Shawn Lunt
Professional Marketing Associates

Congratulations!!!! You have made a decision to purchase the Prado Electronic Cigarette, a decision that will potentially save you \$1,000's of dollars a year! An average pack a day smoker spends over \$250 a month. By making the choice to switch to the Prado Electronic Cigarette a pack a day smoker will save an average of \$200 per month. If you choose to exercise your right to keep your free trial starter kit you will realize the savings immediately!!!!

Please feel free to call customer service toll free at 1-800-558-9643 for customer support.

Below are the terms and conditions of the agreement and legally binding contract you will be entering into by making this purchase. **WARNING**

IF YOU ARE UNDER THE AGE OF 18 (OR UNDER THE AGE OF 19 AND YOU LIVE IN ALABAMA, ALASKA, NEW JERSEY, UTAH AND NEW YORK) PLEASE LEAVE THIS SITE IMMEDIATELY. BY ENTERING THIS SITE, YOU REPRESENT THAT YOU ARE AT LEAST 18 YEARS OF AGE, OR 19 IN THOSE JURISDICTIONS MENTIONED ABOVE.

PLEASE NOTE THAT IF YOU ARE A RESIDENT OF OREGON, YOU MAY NOT PURCHASE THE PRODUCT:

If you are under the age of 18/21 (depending on individual state laws regarding access to adult subject matter) or if it is illegal to enter this site in your community, please leave immediately. By entering this site, you represent that you are at least 18 years of age, or 21 in those jurisdictions in which 21 is the age of majority **Member User**

Agreement You must read and agree to these Terms and Conditions before placing your order for the Ten Day Risk Free Trial Offer of Prado Electronic Cigarette. By placing your order for the Ten Day Risk Free Trial Offer of Prado Electronic Cigarette you agree to be bound by the following Terms and Conditions:

The Prado E-Cigarette is intended for use by adult smokers and not intended for pregnant women or those who are sensitive to nicotine. Nicotine is highly addictive and may be dangerous to your health. Prado E Cigarette is not intended as a smoking cessation device. Prado E-Cigarette offers smokers a tar-free way to enjoy smoking.

SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.

***LIFETIME LIMITED WARRANTY** Smoke Freely, LLC will repair or replace any components of the electronic cigarette at Smoke Freely's sole discretion as long as the customer remains enrolled in the Auto Ship Refill Value Plan.

General Agreement By clicking to order, you agree to our terms and conditions and are enrolled in the auto ship Refill Value Plan which is included as the 20 cartridges in the Prado Electronic Cigarette Starter Kit. Your credit card will be charged \$9.95 to cover the shipping & handling of your RISK FREE Trial of the Prado Electronic Cigarette Starter Kit, this \$9.95 S&H fee is non refundable. If after 10 days*** of your order you keep your Prado Electronic Cigarette Starter Kit and the 20 cartridges (autoship Refill Value Plan) and have not returned the item with a valid RMA number, your credit card will be billed for the full purchase price of the starter kit (\$89.95) and for the Refill Value Plan (\$9.95) for a total of \$149.90. As long as you are enrolled in the autoship Refill Value Plan your Prado electronic cigarette is warranted for life! Just send in any damaged component and we will replace it for free! No questions asked.

RETURNS: No item will be accepted for return if it is not accompanied by a valid RMA number. An RMA number can be obtained by calling our Customer Service Center within the trial period, we reserve the right to refuse any RMA requests made outside of the trial period. If an item is returned without an RMA number then your item will not be accepted for return or refund. Your item must be physically returned with the RMA number by the tenth day of your trial period. The day you order the product counts as day one of your free trial regardless of the time of day. Example: If you order anytime between 12:01 am and 11:59 pm on the 2nd day of the month your free trial will expire at 12:01 AM on the 12th day of that same month. Returned items will be subject to a 20% restocking fee and the consumer is responsible for shipping and handling charges. You, the customer, are able to use two of the initial twenty cartridges that you receive with your starter kit at no charge to decide if you like the product. Each additional cartridge that is used and not returned in its original un-opened package will result in a charge of

\$5 per cartridge. No returns will be accepted after the ten day trial period. All items must be in working order when returned or the return will not be accepted unless it is determined that the items were originally shipped in a damaged or malfunctioned condition. This determination will be made at the sole discretion of the ECIG Free Trial Return Center.

Please note you may cancel your trial (see notes below) within 10 days of ordering by returning the Starter Kit and the unused portion of cartridges with a valid RMA number. If you do cancel your trial your \$9.95 S&H fee will not be refunded. TRIAL ITEMS: The free trial applies only to the Prado Electronic Cigarette Starter Kit and the initial Refill Value Plan as outlined in the Terms and Conditions. The trial period for all trial items is 10 days, this may be extended at our discretion. All other products purchased on this website are non-refundable. The Auto Ship Refill Value Plan is a VIP discount cartridge program, offering huge savings of up to \$1000's per year depending on your tobacco usage! You will receive 20 cartridges shipped monthly (equivalent to 3.00 per pack per day each month). This is equivalent to a \$5.00 per day savings compared to traditional tobacco products based on an \$8 per pack cost. As long as you remain enrolled in the Auto Ship program your electronic cigarette is warranted against any defect for life!

Please note you may cancel your Auto Ship Refill Value Plan at anytime by returning the unopened cartridges with the RMA number issued by calling customer service.

** If your Free Trial Starter kit along with the remaining cartridges are not returned within 10 days, your credit card will be billed the purchase price of \$89.95. Upon placing your order, you will be enrolled in the Auto Ship Refill Value Plan, which will automatically send your refill cartridges the day you order the starter kit (20 cartridges) and every thirty days thereafter and bill your credit card \$59.95 plus \$9.95 S&H 30 days from the day you order the initial free trial and every 30 days thereafter. Simply call customer service at (800) 558.9643 to cancel enrollment at any time. Partially opened packages of cartridges will not be accepted outside of the 10 day free trial period. Once your subsequent Refill Value Plans are put into the ordering sequence they cannot be cancelled. This takes place seven days before the cartridges ship. All autoship Refill Value Plan enrollments must be cancelled seven days or more before scheduled ship date to take effect for the respective order.

***Days calculated include transit time.

TO REPLACE OR RETURN YOUR PRODUCT, PLEASE FOLLOW THE INSTRUCTION BELOW: Pack the items to be returned securely (Shipping charges are your responsibility).

Please enclose your original bill of sale, your name, address, telephone numbers, email address and reason for returning the item.

Please send the return items to:

ECIG FREE TRIAL Return Center

405 W. Fairmont Drive

Tempe, AZ 85282

Product Disclaimer By placing an offer, you agree to the following statements: • Prado E-Cigarette is intended for use by adult smokers and not intended for pregnant women or those who are sensitive to nicotine. • Nicotine is highly addictive and may be dangerous to your health. • Prado E Cigarette is not intended as a smoking cessation device. • SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy. • Warning: CONTAINS NICOTINE - KEEP OUT OF REACH OF CHILDREN. Liquid harmful in direct contact with skin. Immediately wash affected area with soap and water upon contact. If liquid is swallowed or even placed in mouth seek medical attention immediately for possible nicotine poisoning. The information contained in the web site is provided for informational purposes only and is not meant to substitute for the advice provided by your doctor or other health care professional.

PRIVACY Please review our online privacy policy for information about our collection and use practices with respect to your personal information provided through use of this site.

LIMITATION ON LIABILITY AND DISCLAIMER OF WARRANTIES By using this web site, placing a trial order, or participating in the Autoship Refill Value Program, you agree that we Smoke Freely, LLC and our owner(s), parent, subsidiaries, affiliates, agents, representatives, and employees will have no liability whatsoever for any injuries, losses, claims, damages or any special, exemplary, punitive, indirect, incidental or consequential damages of any kind, whether based in contract, tort, strict liability or otherwise, resulting from any use of the web site, the trial offer, the auto delivery program, or any product or service offered on this web site, any failure or delay by us in connection with the web site, the trial offer, the auto delivery program, or any product or service offered on this web site, the performance or non-performance of the web site, the trial offer, the auto delivery program, or any product or service offered on this web site by us, even if we have been advised of the possibility of damages. This disclaimer of liability applies to any damages or injury caused by any failure of performance, error, omission, interruption, deletion, defect, delay in operation, computer virus, communications line failure, theft or destruction, or unauthorized access to, alteration of, or use of your information. Notwithstanding this disclaimer, if we are found liable for any loss or damage which arises out of, or is in any way connected with, any of the occurrences described in this paragraph, then our liability will in no event exceed, in total, the sum of \$100.00. We make no warranty of any kind regarding the web site, the trial offer, the Value Refill Autoship Program, or any product or service available on this web site, each of which is provided on an "as is" and "as available" basis. We expressly disclaim all warranties, including implied warranties of merchantability, fitness for a particular purpose, title, non-infringement, and those arising by statute or otherwise in law or from a course of dealing or usage of trade. We are not responsible or liable for any warranty, representation, or guarantee, express or implied, in fact or in law, relative to the web site, the trial offer, the Value Refill Autoship Program, or any product or service offered on this web site, including without limitation that they will be error-free, or as to the accuracy, completeness and timeliness of any content or information distributed with respect to them. Some states do not allow the limitation of liability and disclaimer of implied warranties, so the disclaimers and limitations above may not apply to you. **GOVERNING LAW** The laws of the State of Arizona, without regard to its conflict of law principles, will govern these Terms.

Negative Option Clause: I UNDERSTAND THAT THIS CONSUMER TRANSACTION INVOLVES A NEGATIVE OPTION, AND THAT I MAY BE LIABLE FOR PAYMENT OF FUTURE GOODS AND SERVICES UNDER THE TERMS OF THIS AGREEMENT FOR AN INITIAL AMOUNT OF \$149.90 and \$59.90 PER MONTH THEREAFTER PLUS SHIPPING IF I FAIL TO NOTIFY THE SUPPLIER NOT TO SUPPLY THE GOODS OR SERVICES DESCRIBED, AND THAT IT IS NECESSARY FOR ME TO OBTAIN A RMA (RETURN MERCHANDISE AUTHORIZATION) CODE.

Chargeback Policy When you agree to pay for shipping of the Free Trial products or agree to purchase any products from our Website (<http://www.ecig4free.com>), or purchase any of our Free Trial products from affiliate websites, you automatically agree and are bound, without limitation or qualification, to these terms and conditions, which by purchasing the product, you have read, understand, acknowledge and agree to. Accordingly, you agree that you voluntarily purchased products from this Website and you will NOT dispute, in the form of a chargeback to your bank or credit card company, all or any portion of the associated costs for products and/or services. You further acknowledge that you have read entirely, understand and agree that the cancellation policy herein shall be your sole method for exchanging or requesting a refund as to the Free Trial Period, that no refunds or guarantees are available for the monthly shipments, and that you will not attempt to chargeback or otherwise attempt to manipulate this agreement to which you are bound by voluntarily accessing and ordering products and/or services from Smoke Freely, LLC. Fraudulent chargeback attempts will result in a penalty fee of \$100 being charged to your card for processing fees.

Furthermore we will prosecute to the fullest of the law for making false claims of fraudulent activity and illegal

attempts to have the purchase charged back to your credit card. IT IS YOUR RESPONSIBILITY TO READ THE TERMS AND CONDITIONS AND BY SUBMITTING YOUR ORDER YOU HAVE ENTERED INTO THIS AGREEMENT.
ENTIRE AGREEMENT These Terms make up the entire agreement between us and you relating to this web site and the products or services offered herein and replace any prior understandings or agreements (whether oral or written) regarding the web site the products or services. If any of these Terms shall become invalid or unenforceable, the remaining terms shall remain in full force and effect.
NO REFUNDS AFTER 10 DAY TRIAL PERIOD EXPIRES.

Exhibit B



FDA U.S. Food and Drug Administration

[Home](#) > [For Consumers](#) > [Consumer Updates](#)

For Consumers

E-Cigarettes: Questions and Answers

Search Consumer Updates



☒ Get Consumer Updates by E-mail¹

☒ Consumer Updates RSS Feed²

Q: What are electronic cigarettes?

A: Electronic cigarettes are products designed to deliver nicotine or other substances to a user in the form of a vapor. Typically, they are composed of a rechargeable, battery-operated heating element, a replaceable cartridge that may contain nicotine or other chemicals, and an atomizer that, when heated, converts the contents of the cartridge into a vapor. This vapor can then be inhaled by the user. These products are often made to look like such products as cigarettes, cigars, and pipes. They are also sometimes made to look like everyday items such as pens and USB memory sticks, for people who wish to use the product without others noticing.

Q: What concerns does FDA have regarding electronic cigarettes?

A: FDA has not evaluated any e-cigarettes for safety or effectiveness. When FDA conducted limited laboratory studies of certain samples, FDA found significant quality issues that indicate that quality control processes used to manufacture these products are substandard or non-existent. FDA found that cartridges labeled as containing no nicotine contained nicotine and that three different electronic cigarette cartridges with the same label emitted a markedly different amount of nicotine with each puff. Experts have also raised concerns that the marketing of products such as e-cigarettes can increase nicotine addiction among young people and may lead kids to try other tobacco products. Visit FDA's Electronic Cigarettes webpage³ for additional information.

Q: What action did FDA take today on electronic cigarettes?

A: FDA issued warning letters to five distributors of electronic cigarettes for violations of the Federal Food, Drug, and Cosmetic Act (FDCA). These violations included unsubstantiated claims and poor manufacturing practices.

Q: Would it be possible for an electronic cigarette to receive FDA approval?

A: Yes. FDA issued a letter to the Electronic Cigarette Association inviting electronic cigarette firms to work in cooperation with the agency toward the goal of assuring that electronic cigarettes sold in the United States are lawfully marketed. The agency intends to regulate electronic cigarettes and related products in a manner consistent with its mission of protecting the public health.

Q: What products should people who want to quit smoking use?

A: There are a number of FDA-approved smoking cessation aids, including nicotine gum, nicotine skin patches, nicotine lozenges, nicotine oral inhaled products, and nicotine nasal spray that are available for smokers to use to reduce their dependence on nicotine. Free help is available to all smokers who want to quit at 1-800-QUIT-NOW or by visiting www.smokefree.gov⁴.

This article appears on FDA's Consumer Updates page⁵, which features the latest on all FDA-regulated products.

Posted September 9, 2010

[back to top](#)

For More Information

- [FDA Acts Against 5 Electronic Cigarette Distributors](#)⁶
- [FDA's Electronic Cigarettes web page](#)⁷
- [Letter to the Electronic Cigarette Association \(PDF - 43KB\)](#)⁸

Related Consumer Updates

- [FDA Warns of Health Risks Posed by E-Cigarettes \(PDF\) \(PDF - 423KB\)](#)⁹
- [FDA 101: Smoking Cessation Products](#)¹⁰

Links on this page:

1. http://service.govdelivery.com/service/subscribe.html?code=USFDA_9
2. </AboutFDA/ContactFDA/StayInformed/RSSFeeds/Consumers/rss.xml>
3. </NewsEvents/PublicHealthFocus/ucm172906.htm>
4. <http://www.smokefree.gov>
5. </ForConsumers/ConsumerUpdates/default.htm>
6. </NewsEvents/Newsroom/PressAnnouncements/2010/ucm225224.htm>
7. </NewsEvents/PublicHealthFocus/ucm172906.htm>
8. </downloads/Drugs/GuidanceComplianceRegulatoryInformation/UCM225263.pdf>

Consumer Updates > E-Cigarettes: Questions and Answers

9. [/downloads/ForConsumers/ConsumerUpdates/UCM173430.pdf](#)
10. [/ForConsumers/ConsumerUpdates/ucm198176.htm](#)

Exhibit C

If you need customer service call 1-877-647-3735

Corporate Address:

***EU SFP Limited
40 Villa Fairholme
Sir Augustus Bartolo Street
Ta X'Biex
XBX 1095
Malta***

This charge will appear as Electriccig-8776473735 on your billing statement.

Terms of Use

Terms of Use: TERMS OF USE | EU SFP LIMITED DBA SMOKE FREELY, LLC. WEB SITE TERMS OF USE AND LEGAL RESTRICTIONS

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YOUR [WWW.SMOKEFREELY.COM](http://www.smokefreely.com) ACCOUNT

If you use this site, you are responsible for maintaining the confidentiality of your account and password and for restricting access to your computer, and you agree to accept responsibility for all activities that occur under your account or password. EU SFP Limited DBA Smoke Freely only sells to

smoking adults, 21 years or older, who own and can purchase with a credit card. If you are under 21, SmokingEverywhere.com and its affiliates will refuse service, terminate all of your accounts, remove or edit content, or cancel orders immediately.

SATISFACTION GUARANTEE

If you're not completely satisfied with our product, please return it for an exchange **ONLY** for any other products within (even if used) within 14 days of your original purchase date (less shipping & handling) - **NO REFUNDS!**

12 MONTH DEVICE LIMITED WARRANTY

EU SFP Limited DBA Smoke Freely, LLC warrants to the original purchaser of the EU SFP Limited DBA Smoke Freely Electronic Cigarette, that it will be free from defects in materials and workmanship for a period of **ONE YEAR** (12 months) from the date of original purchase. During the warranty period, EU SFP Limited DBA Smoke Freely will, at its discretion, repair or replace (with a new or reconditioned unit) components that are defective. Exclusions to this warranty shall not apply to defects resulting from misuse, improper or inadequate maintenance or unauthorized modification. This Limited Warranty gives the original purchaser specific limited rights, in addition to those rights under applicable local law.

TO REPLACE YOUR PRODUCT, PLEASE FOLLOW THE INSTRUCTION BELOW:

Pack the items to be returned securely (Shipping charges to EU SFP Limited DBA Smoke Freely are your responsibility).

Please enclose your original bill of sale, your name, address, telephone numbers, email address and reason for returning the item.

***LIFETIME LIMITED WARRANTY**

EU SFP Limited DBA Smoke Freely, LLC will repair or replace any components of the electronic cigarette at EU SFP Limited DBA Smoke Freely's sole discretion as long as the customer remains enrolled in the Auto Ship Refill Value Plan.

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This is an international transaction as the Prado Electronic Cigarette is available in many countries throughout the world. YOUR bank may charge you a international transaction fee accordingly. This type of surcharge is imposed by your own bank and EU SFP Limited DBA Smoke Freely cannot refund this surcharge.

This charge will appear as Electriccig-8776473735 on your billing statement.


Exhibit D

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You qualify for our Special Limited Time Offer
to receive a Discounted Shipping of \$7.95 on your
Exclusive Trial Kit! Offer Only Valid Today!

Congratulations! You Qualify For A \$5.00 Shipping Discount: [ECigSaveNow](#)

[Click Here to Save \\$5.00](#)

Product	Details	Qty	Price
	Lifetime Warranty Rechargeable Lithium Battery Stainless Steel Atomizer 10 Nicotine Cartridges Wall Charger and a USB Charger Collector's Gift Box Quick Start Manual	1	\$0.00

Select Your Custom Kit Options:

Flavor:

Nicotine Level:


I Smoke the Following:

Sub-Total: \$0.00

Shipping & Handling: \$12.95

Total: \$12.95

Your shipment is estimated to arrive in February 26, 2011

We Accept:  VISA

Name on Card:

Payment Method:

Card Number:

Expiration Date:

/

CCV2: (what's this?)

This is a secure connection.

Confirm My Order

Offer Terms: By clicking confirm my order, you agree to be enrolled in the 14 day trial offer and pay \$9.95 shipping. After the trial expires you agree that your card will be charged \$149.90 for the starter kit and months supply of cartridges. Your refill cartridges will recur at \$59.95 for 20 cartridges plus \$9.95 for shipping and handling every month from the day you signed up for the trial until you cancel. A restocking fee may apply on returns. Please call 1.877.647.3735 for customer service. This charge will appear as electriccig-8776473735 on your statement.



[HOW E-CIGS WORK](#) | [TERMS & CONDITIONS](#) | [PRIVACY POLICY](#)

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